



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,266	10/27/2003	Allen D. Polowinczak	1247 P 277	2799

7590 10/10/2006
PAUL J. NYKAZA, ESQ.
WALLENSTEIN WAGNER & ROCKEY, LTD.
53RD FLOOR
311 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6630

EXAMINER

A. PHI DIEU TRAN

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,266

Applicant(s)

POLOWINCZAK, ALLEN D.

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19,21-33,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19,21-33,40 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/7/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 33, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelver (3889434).

Shelver (figures 3, 4) shows a muntin clip comprising a base (123) having a first surface, a connector (130) extending from the base, the first surface is located on a lip (121) extending from the base, the first surface is textured, the first surface comprising a plurality of protrusions (126), the first surface including an adhesive (131) applied thereto, the lip extends from the base in a direction generally opposite to the direction from which the connector extends from the base, the connector extends from the base from a second surface wherein the first surface is opposite the second surface, the connector comprising a leg (122, 124), the base having a texture surface (the surface including parts 124, and thus are textured), the base having means for frictionally engaging the separator, the means for frictionally engaging is located on a lip extending from the base, the means comprising a textured surface (26), the textured surface comprising a plurality of protrusions, the means for frictionally engaging comprising an adhesive substance (31), the lip having a textured surface comprising a plurality of protrusions (1260 substantially covering the entire surface, the connector (130) extending perpendicularly from the second side of the base.

3. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Merchlewitz (5899033).

Art Unit: 3637

Merchlewitz (figures 5-9) shows a muntin clip comprising a base (78) having a textured surface (the surface certainly has a texture and it is unclear what applicant is claiming as a texture either), a leg (82) extending from the base, the leg having first and second opposed surfaces, the first surface having at least one projection (84) extending therefrom, the second surface having at least one projection (84, the other side of part 82) extending one projection extending therefrom.

4. Claims 11-13, 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gieseke (6131356).

Gieseke (figures 5-7) shows a sash window comprising a first pane of glass (71) and a second pane of glass (71) spaced from the first pane of glass by a pane separator (84), each of the first and second panes of glass being generally planar and having two opposed, generally planar major surfaces and a plurality of smaller edge surfaces defined by perimeters of the two major surfaces, the first pane (71) being generally parallel to the second pane and positioned such that one of the major surfaces of the first pane is in spaced and confronting relationship to one of the major surfaces of the second pane, a muntin grid located between the first and second pane including a muntin bar (65), a muntin clip (10, figure 7) located between the first and second pane and having a base (30) having a first surface (the surface which engage the part 86) frictionally engaging the separator (86) and a leg (16) extending from the base and engaging the muntin bar, the first surface is located on a lip (50) extending from the base, the first surface is textured (inherently so as every structural surface has a texture), the lip (50) extends from the base in a direction generally opposite to the direction from which the leg (16) extends from the

Art Unit: 3637

base, the leg extends from the base from a second surface wherein the first surface is opposite from the second surface.

5. Claims 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichert (2001/0034990).

Reichert (figures 1, 4, 9) shows a sash window comprising a first pane of glass (20) and a second pane of glass (18) spaced from the first pane of glass by a pane separator (22), each of the first and second panes of glass being generally planar and having two opposed, generally planar major surfaces and a plurality of smaller edge surfaces defined by perimeters of the two major surfaces, the first pane (20) being generally parallel to the second pane and positioned such that one of the major surfaces of the first pane is in spaced and confronting relationship to one of the major surfaces of the second pane, a muntin grid (figure 4) located between the first and second pane including a muntin bar (42, 44), a muntin clip (50, figure 4) located between the first and second pane and having a base (58) having a first surface (the surface which engage the part 22) frictionally engaging the separator (22) and a leg (the part that extends vertically from which part 52 extends) extending from the base and engaging the muntin bar, the first surface is located on a lip (54) extending from the base, the first surface is textured (inherently so as every structural surface has a texture), the first surface comprising a plurality of protrusions (54), the lip (54) extends from the base in a direction generally opposite to the direction from which the leg extends from the base, the leg extends from the base from a second surface wherein the first surface is opposite from the second surface.

6. Claims 25-27, 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Gieseke (6131356).

Gieseke (figures 5-7) shows a muntin grid comprising a plurality of interconnected muntin bars (figure 14), at least one muntin bar being generally elongated in a first direction such that the muntin bar is dimensioned substantially greater in the first direction than in any other direction, the muntin bar having two ends located at opposed extremities of the muntin bar relative to the first direction, a muntin clip (figure 7) comprising a base (30) having a first surface adapted to frictionally engage the separate and a connector (16) extending from the base and inserted into one of the muntin bar ends such that the connect extends a distance into the muntin bar in the first direction, the distance of extension being substantially smaller than the dimension of the muntin bar in the first direction, the first surface is located on a lip (43) extending from the base, the first surface is textured (inherently so as every structural surface has a texture), the lip (50) extends from the base in a direction generally opposite to the direction from which the connector (16) extends from the base, the connector comprising a leg, the connector extends from the base from a second surface wherein the first surface is opposite from the second surface.

7. Claims 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichert (201/0034990).

Reichert (figures 1, 4, 7) shows a muntin grid comprising a plurality of interconnected muntin bars (figure 44, 42 figure 4), at least one muntin bar being generally elongated in a first direction such that the muntin bar is dimensioned substantially greater in the first direction than in any other direction, the muntin bar having two ends located at opposed extremities of the muntin bar relative to the first direction, a muntin clip (50, figure 4) comprising a base (58) having a first surface adapted to frictionally engage the separator (22) and a connector (the part

Art Unit: 3637

extending perpendicular from part 58 and connected to part 52) extending from the base and inserted into one of the muntin bar ends such that the connect extends a distance into the muntin bar in the first direction, the distance of extension being substantially smaller than the dimension of the muntin bar in the first direction, the first surface is located on a lip (54) extending from the base, the first surface is textured (inherently so as every structural surface has a texture), the first surface comprising a plurality of protrusions (54, figure 4), the lip (54) extends from the base in a direction generally opposite to the direction from which the connector extends from the base, the connector comprising a leg, the connector extends from the base from a second surface wherein the first surface is opposite from the second surface.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reichert (2001/0034990) in view of Pease III et al (5834124).

Reichert (figures 1, 4, 11-13) shows a sash window comprising pane separator (22) extending along at least a portion of a length of circumference of the window assembly, a first pane of glass (20) and a second pane of glass (18) spaced from the first pane of glass by the separator, a muntin bar (42, 44, figure 4) located between the first and second panes, a muntin clip (50) located between the first pane and the second pane and having a base (58) having a first surface that is textured and that frictionally engages the separator and a connector (the part that

Art Unit: 3637

extends perpendicular to the base and associated with part 52) extending from the base and engaging the muntin bar.

Reichert does not show a frame comprising a top rail, a base rail, first and second tiles connecting the top rail and the base rail, the separator and the panes positioned within an area defined by the frame.

Pease III et al (figure 1A) shows a window assembly comprising a top rail, a base rail, first and second tiles connecting the top rail and the base rail, the separator (26) and the panes (24) positioned within an area defined by the frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Reichert's structure to show a frame comprising a top rail, a base rail, first and second tiles connecting the top rail and the base rail, the separator and the panes positioned within an area defined by the frame as taught by Pease III et al because it would enable the easy, secure mounting of the window unit into a wall opening.

10. Claim 18-19, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichert (2001/0034990) in view of Pease III et al (5834124).

Reichert (figures 1, 4, 9) shows a window assembly comprising a sash window, the sash window comprising a pair of parallel window panes (18, 20) spaced from the first pane of glass by a pane separator (22), each of the first and second panes of glass being generally planar and having two opposed, generally planar major surfaces and a plurality of smaller edge surfaces defined by perimeters of the two major surfaces, the panes are positioned such that one of the major surfaces of one window pane is in spaced and confronting relation to one of the major surfaces of the other window pane, a muntin grid (figure 4) located between the first and second

Art Unit: 3637

pane including a muntin bar (42, 44), a muntin clip (50, figure 4) located between the first and second pane and having a base (58) having a first surface (the surface which engage the part 22) frictionally engaging the separator (22) and a leg (the part that extends vertically from which part 52 extends) extending from the base and engaging the muntin bar, the first surface is located on a lip (54) extending from the base, the first surface is textured (inherently so as every structural surface has a texture), the first surface comprising a plurality of protrusions (54), the lip (54) extends from the base in a direction generally opposite to the direction from which the leg extends from the base, the leg extends from the base from a second surface wherein the first surface is opposite from the second surface.

Reichert does not show the window assembly having a master frame, the sash window mounted in the master frame.

Pease III et al shows a master frame (21) surrounding a window assembly to enable the easy and secure mounting of the window assembly in a wall opening.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Reichert's structure to show the window assembly having a master frame, the sash window mounted in the master frame as taught by Pease III et al because it would enable the easy, secure mounting of the window unit into a wall opening.

Response to Arguments

11. Applicant's arguments filed 7/10/06 to claims 1-9, 33, 40 have been fully considered but they are not persuasive.

12. Applicant states that the reference Shelver does not show "a connector extending from the base and configured to engage the muntin bar end", examiner respectfully points out that the

Art Unit: 3637

reference shows a connector extending from the base. In response to applicant's argument that the structure of Shelver cannot function to engage the muntin bar end, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The connector as set forth can be adapted to perform as claimed, and able to perform the intended use. With respect to applicant's statement of the connector engaging a muntin bar end, examiner respectfully points out that no muntin bar is claimed; secondly, what would prevent Shelver's connector from being able to be inserted into a muntin bar end; and thirdly, what is the structural difference between applicant's connector and that of Shelver. Examiner finds that the structure as claimed is met by Shelver's structure, and Shelver's structure is a proper 102 rejection as it satisfies the requirement of a 102 rejection. With respect to applicant's statement that the term "muntin clip" as set forth by the examiner is not proper, examiner respectfully sets forth that the clip as set forth by the examiner is used in a window frame environment. The clip also functions to secure things together. Furthermore, the clip as set forth by the examiner also meets the intended use requirement above per 102 rejection. The argument is thus moot.

13. With respect to claim 33, Shelver as pointed out above, shows the connector extending perpendicularly from the second side of the base as claimed. The reasoning as to the intended use is not repeated here as it is already set forth above.

14. Applicant's arguments with respect to claims 11-32, 41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows window frame assemblies.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

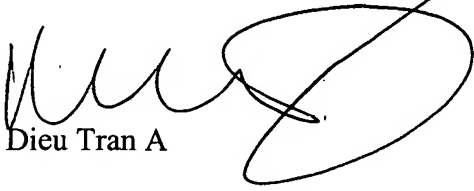
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

9/30/06